

2011 DRAFTING REQUEST

Bill

Received: **05/16/2011**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Mark Honadel (608) 266-0610**

By/Representing: **Bonnie Deering**

May Contact:

Drafter: **pkahler**

Subject: **Real Estate - landlord/tenant**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Honadel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Terminating a tenancy for drug-related or violent crimes

Instructions:

See attached

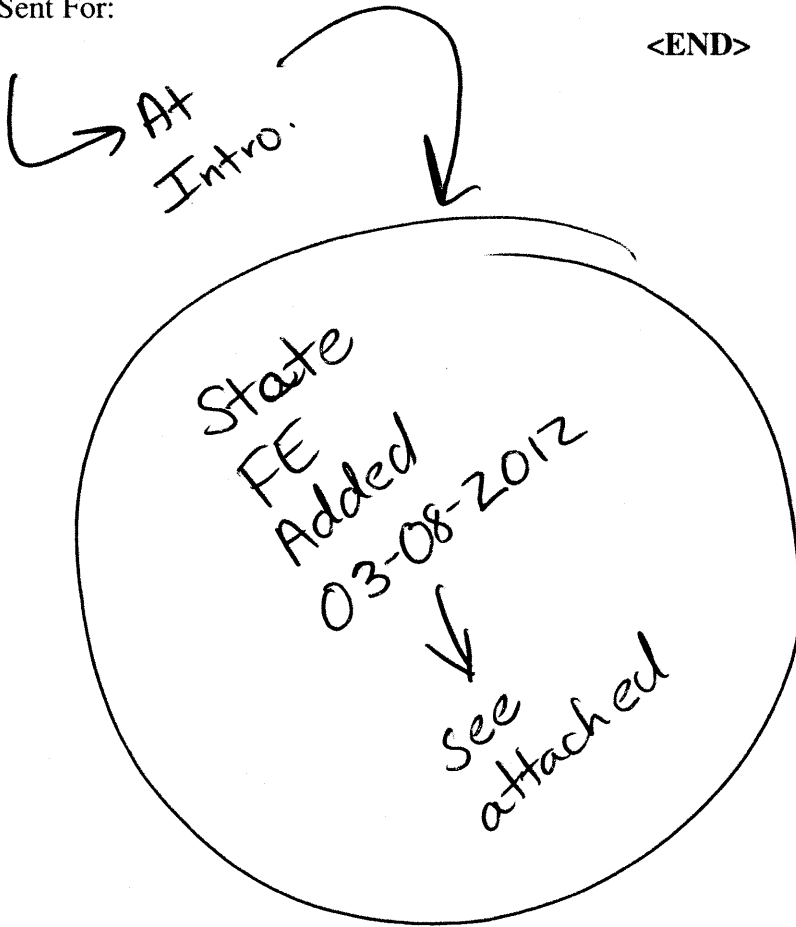
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 05/26/2011	wjackson 08/09/2011		_____			
	pkahler 07/18/2011			_____			
/P1			phenry 08/09/2011	_____	lparisi 08/09/2011		Local
/1	pkahler 09/12/2011	wjackson 09/19/2011	jfrantze 09/20/2011	_____	ggodwin 09/20/2011		Local

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	pkahler 11/10/2011 pkahler 02/09/2012	wjackson 11/17/2011	phenry 11/18/2011	_____ _____ _____ _____	sbasford 11/18/2011	ggodwin 02/09/2012	

FE Sent For:

<END>



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12 wj 11/17

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	pkahler 07/18/2011	1 WJ 9/16		_____			
/P1			phenry 08/09/2011	_____	lparisi 08/09/2011		

FE Sent For:

Jb
9/20
Km
JJ
9/20
<END>

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/?	pkahler	/pl wly 8/9	8/9 ph	X			

FE Sent For:

<END>

Kahler, Pam

From: Deering, Bonnie
Sent: Monday, May 16, 2011 12:46 PM
To: Kahler, Pam
Subject: RE: 09-10 draft LRB 1793

Please clarify any changes with me. I believe they may want to meet with you directly, which I would also be at the meeting, would that be ok?

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

From: Kahler, Pam
Sent: Monday, May 16, 2011 12:45 PM
To: Deering, Bonnie
Subject: RE: 09-10 draft LRB 1793

That would be fine. I'll enter the bill for your office and use it as a base document. Do you want me to clear any suggested changes with you first, or just go ahead and make them, because you'll see them in the draft?

From: Deering, Bonnie
Sent: Monday, May 16, 2011 12:28 PM
To: Kahler, Pam
Subject: 09-10 draft LRB 1793

Pam: I believe former Senator Plale was working on 2009-10 LRB 1793 relating to terminating tenancy for drug related or violent crimes, but now that he is no longer serving, Rep. Honadel is working on this bill. We have been working with the Wisconsin Rental Housing Legislative Council and their lobbyist, Gary Goyke, regarding changes we would like to see made. Rep. Honadel would like it if Gary and representatives from the WI Rental Housing Legislative Council could contact you directly with their changes. Would that be ok?

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

Kahler, Pam

From: Deering, Bonnie
Sent: Tuesday, June 28, 2011 9:51 AM
To: Kahler, Pam
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

The 13th it is. How about 11:00 on the 13th in our office, 113 West.

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

From: Kahler, Pam
Sent: Tuesday, June 28, 2011 9:50 AM
To: Deering, Bonnie
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Any of those would work. Perhaps we should shoot for the 13th, though, because I may try to get some vacation in later in July and/or August.

From: Deering, Bonnie
Sent: Tuesday, June 28, 2011 9:39 AM
To: Kahler, Pam
Subject: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Pam: Would you be willing to come over to Rep. Honadel's office and meet with Mark and some folks from the WI Apartment Association on changes for re-drafting of 09-10 LRB 1793? We are looking at some dates in July; the 13th, 26th, 27th, or 28th. Would any of those dates work for you?

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

7-13

Mike Wukla
Dale Ann WickWAA LC
WAKRep. Donadel
Bonnie Deering

eviction of drug dealers → 1st act
 gang → next
 domestic abuse → next

new version → notice from police
 (see suggested draft) like current law

ll & police
 police determine is a nuisance
 indemnified

* tenant still liable for remainder of lease rent
 if goes to jail, property is abandoned

* can evict just one of tenants

(require police to notify ll every time a nuisance call is made?)
 what happens now?

hold off on additional suggestions?

prohibit action against ll if doing
 everything legally possible
 to evict tenant?

823?
 main chapter?

* if main has a nuisance ordinance,
 require local police to notify ll if a nuisance call
 made to ll's property related to a tenant

SECOND DRAFT – NOT FOR DISTRIBUTION

An ACT to create 704.18, repeal of 704.17 (3)(b) and amend 704.17 (5) of the statutes relating to: issuing notice and terminating the tenancy for any tenant who (a) engages in or is anyway involved in any criminal activity or behavior on the rental property; or (b) engages in any act intended to facilitate or that does facilitate criminal activity or behavior on the rental property.

The People of the State of Wisconsin, represented in the Senate and Assembly, do enact as follows:

704.18 CRIMINAL NUISANCE NOTICE

1. "Criminal / Nuisance Activity or Behavior" as defined in this paragraph means any act or behavior by a tenant, a member of the tenant's household, a guest or associate of the tenant or household member (whether invited or uninvited) or any person or guest of the tenant or household member in the unit or at the premises, including any common grounds that meet the definitions of any Felony or Misdemeanor as defined in Wisconsin Criminal Statutes including, but not limited to the following:

- A. Disorderly conduct, as defined in chapter 947 of the Wisconsin Statutes;
- B. Unlawful use of weapons, as defined in chapter 941 of the Wisconsin Statutes;
- C. Hate Crimes, as defined in chapter 939 of the Wisconsin Statutes;
- D. Discharge, use or possession of a firearm, as defined in chapters 813, 939, 940, 941, 943 and 948 of the Wisconsin Statutes;
- E. Gambling, as defined in chapter 945 of the Wisconsin Statutes;
- F. Possession, manufacture or delivery of controlled substances, as defined in chapter 961 of the Wisconsin Statutes;

- G. Assault, battery or offenses related thereto, as defined in Chapter 940 of the Wisconsin Statutes;
- H. Sexual abuse or related offenses, as defined in chapters 940 and 948 of the Wisconsin Statutes;
- I. Public indecency, as defined in chapter 944 of the Wisconsin Statutes;
- J. Prostitution, as defined in chapter 944 of the Wisconsin Statutes;
- K. Criminal damage to property, as defined in chapters 941 and 943 of the Wisconsin Statutes;
- L. Possession, cultivation, manufacture or delivery of cannabis, as defined in chapter 961 of the Wisconsin Statutes;
- M. Illegal consumption or possession of alcohol, as defined in chapter 125 of the Wisconsin Statutes;
- N. Criminal street gang activity, as defined by chapter 941 of the Wisconsin Statutes;
- O. Interfering with Law Enforcement, as defined in chapter 946 of the Wisconsin Statutes;
- P. Any other misdemeanor or felony criminal offense as described in the Wisconsin Statutes.
- Q. Any local ordinance which governs the above offenses listed in A through P.

2. "Violation" in this paragraph means any call to a law enforcement agency where the agency travels to or makes contact with the rental property and after conducting an inquiry, the law enforcement agency determines that the complaint of criminal activity or behavior which brought them to property is justified or that upon investigation that other criminal activity or behavior was or is taking place. An arrest, citation or ^{crim charge or} conviction for the criminal activity or behavior is not required under this paragraph to establish a

crim charge or conviction

criminal nuisance. A violation will exist even though the tenant may not have been able to control the situation, foresee or have knowledge of the violation.

3. This paragraph shall apply to residential tenancies as defined under ATCP 134.
4. "Nuisance" shall be defined in this paragraph as (a) one or more violations as defined herein; (b) any violation as described in 823.113(1) or 823.113(1m)(b); (c) an unreasonably high number of calls for law enforcement services to an address including, but not limited to noise complaints, barking dog complaints, stray animal complaints, juvenile complaints or other public complaints; or (d) any situation that jeopardizes the health and safety of any citizen whether on or near the property identified in the lease.

5. A property owner or manager may terminate the tenancy of a tenant who has received written notice by a law enforcement agency, as defined in s. 165.83 (1)(b) that criminal or nuisance activity or behavior has taken place at or in the rental unit that was caused by the tenant, a member of the tenant's household, a guest or associate of the tenant or household member (whether invited or uninvited) or any person or guest of the tenant or household member in the unit amounting to a Criminal Nuisance under this paragraph. The property owner or manager may give the tenant written notice to vacate on or before a date at least five (5) days after the giving of written notice. The notice shall state the basis for its issuance and the right of the tenant to contest the termination of the tenancy in an eviction action under chapter 799. If the tenant contests the termination of the tenancy, the tenancy may not be terminated without proof by the property owner or manager by a greater than preponderance of credible evidence of the allegation in the notice from the property owner, property manager or law enforcement agency that a nuisance, as defined herein, exists or existed at the time at the rental unit.

tenant
does not
receive
notice -
prop owner
does

?

704.17 (3)(b). REPEALED

704.17 (5) amended

CONTRARY PROVISIONS IN THE LEASE. Provisions in the lease or rental agreement for termination contrary to this section, except for provisions consistent with 704.18 are invalid except in leases for more than one year.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2098/1
PJK:.....

WLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 7-18
D-note

gen cat

1 AN ACT ~~relating to~~; relating to: terminating a tenancy for criminal or nuisance activity.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

Blank component has been removed →

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 704.17 (1) (c) ~~X~~ of the statutes is repealed.

3 SECTION 2. 704.17 (2) (c) ~~X~~ of the statutes is repealed.

4 SECTION 3. 704.17 (3) (b) ~~X~~ of the statutes is repealed.

5 SECTION 4. 704.18 of the statutes is created to read:

6 **704.18 Termination of tenancy for criminal or nuisance activity. (1)**

7 DEFINITIONS. In this section:

8 (a) "Criminal activity" means any act or behavior committed by a person that
9 is punishable in this state by a fine or period of imprisonment.

1 (b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).[✓]

2 (c) "Nuisance activity" means any of the following:

3 1. Activity or behavior in a residential rental unit or on residential rental
4 property to which all of the following apply:

5 a. A complaint of criminal activity has been made to a law enforcement agency
6 regarding the activity or behavior.

7 b. The law enforcement agency has investigated the complaint and determined
8 that the criminal activity complained of, or other criminal activity, was or is taking
9 place at the rental unit or on the residential rental property.

****NOTE: Perhaps I misunderstood how the definitions were intended to work in
the suggested draft, but why define as "nuisance activity" an activity that has resulted
in a call to investigate the activity if the law enforcement agency has ultimately
determined that the activity investigated is criminal activity? Wouldn't the activity be
criminal activity?

10 2. Activities or behaviors for which multiple complaints have been made
11 regarding the same residential rental unit, including noise complaints, barking dog
12 complaints, stray animal complaints, juvenile complaints, and other complaints
13 regarding public concerns, resulting in an unusually high number of calls for law
14 enforcement services to the rental unit.

15 3. Any activity that causes a situation that jeopardizes the health or safety of
16 any person at or near a residential rental unit.

17 (2) A property owner may terminate the tenancy of a residential tenant if both
18 of the following are satisfied:

19 (a) The property owner receives written notice from a law enforcement agency
20 or from the office of the district attorney of any of the following:

21 1. That a nuisance under s. 823.113 (1) or (1m) (b)[✓] exists in the tenant's rental
22 unit or was caused by the tenant on the property owner's rental property.

****NOTE: This provision takes the place of s. 704.17 (1) (c), (2) (c), and (3) (b), which are repealed. I don't know how s. 704.17 (1) (c), (2) (c), or (3) (b) work in practice, as there does not appear to be any requirement under the statutes that a law enforcement agency or district attorney's office send written notice to a landlord if a nuisance under s. 823.113 (1) or (1m) (b) exists at the landlord's property. *

1 2. That criminal or nuisance activity caused by any person has taken place in
2 the tenant's rental unit.

3 3. That criminal or nuisance activity caused by the tenant, a member of the
4 tenant's household, or an invited or uninvited guest or associate of the tenant or of
5 a member of the tenant's household has taken place on the property owner's rental
6 property.

7 (b) The property owner gives the tenant written notice requiring the tenant to
8 vacate on or before a date at least 5 days after the giving of the notice.

9 (3) (a) The notice under sub. (2) (b) shall state the basis for its issuance and the
10 right of the tenant to contest the termination of tenancy in an eviction action under
11 ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be
12 terminated without proof by the property owner by the greater preponderance of the
13 credible evidence of the allegation in the notice from the law enforcement agency or
14 office of the district attorney under sub. (2) (a) 1., 2., or 3. ✓

15 (b) The notice must be in writing and given as specified in s. 704.21. If so given,
16 the tenant is not entitled to possession or occupancy of the premises after the date
17 of termination specified in the notice.

****NOTE: This provision parallels s. 704.17 (4). ✓

18 (4) Nothing in this section shall be construed to relieve a tenant whose tenancy
19 is terminated under this section from any obligation under a rental agreement or any
20 other liability to the landlord.

****NOTE: This provision parallels s. 704.16 (4) (c) 2. ✓

21 **SECTION 5.** 823.073 of the statutes is created to read:

1 **823.073 Notice to landlord of nuisance investigation.** (1) In this section:

2 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).[✓]

3 (b) "Municipality" means a county, city, village, or town.[✓]

4 (2) If a municipality has an ordinance regulating nuisances, the local law
5 enforcement agency shall notify the owner or property manager of residential rental
6 property, at the owner's or property manager's last known address, whenever the law
7 enforcement agency investigates an alleged nuisance at the residential rental
8 property.

9 **SECTION 6.** 893.34[✓] of the statutes is amended to read:

10 **893.34 Immunity for property owners.** No suit may be brought against any
11 property owner who, in good faith, terminates a tenancy as the result of receiving a
12 notice from a law enforcement agency under s. 704.17 (1) (e), (2) (e) or (3) (b) 704.18[✓]
13 (2) (a).

History: 1993 a. 139.

14 **SECTION 7.** 893.80 (7) of the statutes is amended to read:

15 893.80 (7) No suit may be brought against the state or any governmental
16 subdivision or agency thereof or against any officer, official, agent, or employee of any
17 of those entities who, in good faith, acts or fails to act to provide a notice to a property
18 owner that a public nuisance under s. 823.113 (1) or (1m) (b) exists or that criminal
19 activity, as defined in s. 704.18 (1) (a), or nuisance activity, as defined in s. 704.18 (1)[✓]
20 (c), has taken place on the property owner's property.[✓]

History: Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 218; 1977 c. 285, 447; 1979 c. 34; 1979 c. 323 s. 29; Stats. 1979 s. 893.80; 1981 c. 63; 1985 a. 340; 1987 a. 377; 1993 a. 139; 1995 a. 6, 158, 267; 1997 a. 27; 2005 a. 281; 2007 a. 168; 2009 a. 278.

21 **SECTION 8. Initial applicability.**

22 (1) This act first applies to criminal activities, as defined in section 704.18 (1)

23 (a) of the statutes, as created by this act,[✓] or nuisance activities, as defined in section

1 704.18 (1) (c) of the statutes, as created by this act, that are committed on the effective
2 date of this subsection.

3 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2098/^{PI}fdn
PJK:l:....

WLj

Date

I'm not sure that I understood how the definitions in the suggested draft were intended to work together or how the defined terms were intended to work in the statutory text. Therefore, I did not provide an analysis for this version, because you may want several modifications.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2098/P1dn
PJK:wlj:ph

August 9, 2011

I'm not sure that I understood how the definitions in the suggested draft were intended to work together or how the defined terms were intended to work in the statutory text. Therefore, I did not provide an analysis for this version, because you may want several modifications.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

def of
crime activity include ordinance violation

?? citation has been issued

~~nuisance~~
or that violates ordinance.
need notice from law enforcement

(local)
any municipal ordinance
violation

So no mention of nuisance activity
prop owner may terminate :)

keep 2,
keep 3,

1. is out
keep 704.17 as is

p. 3

add language:
(c) notice does not give
right to cure
breach

10:00

225 NW

meeting of Wis Rental Housing Legislative Council
Bonnie Deering
Gary Boyke
members of council
aides from Murtha, Schultz, & Hanes' offices



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2098/PJ
PJK:wlj:ph

stays r m to run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 9-12)

regenerate ↓

and requiring notice to
landlord of nuisance
investigation by law enforcement agency

1 AN ACT *to repeal* 704.17 (1) (c), 704.17 (2) (c) and 704.17 (3) (b); *to amend* 893.34
2 and 893.80 (7); and *to create* 704.18 and 823.073 of the statutes; **relating to:**
3 terminating a tenancy for criminal or nuisance activity.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 704.17 (1) (c) of the statutes is repealed.

SECTION 2. 704.17 (2) (c) of the statutes is repealed.

SECTION 3. 704.17 (3) (b) of the statutes is repealed.

SECTION 4. 704.18 of the statutes is created to read:

704.18 Termination of tenancy for criminal or nuisance activity. (1)

DEFINITIONS. In this section: *criminal activity*

satisfies any of the following: (a) et

(a) "Criminal activity" means any act or behavior committed by a person that is punishable in this state by a fine or period of imprisonment.

(b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(c) "Nuisance activity" means any of the following:

1. Activity or behavior in a residential rental unit or on residential rental property to which all of the following apply:

a. A complaint of criminal activity has been made to a law enforcement agency regarding the activity or behavior.

b. The law enforcement agency has investigated the complaint and determined that the criminal activity complained of, or other criminal activity, was or is taking place at the rental unit or on the residential rental property.

****NOTE: Perhaps I misunderstood how the definitions were intended to work in the suggested draft, but why define as "nuisance activity" an activity that has resulted in a call to investigate the activity if the law enforcement agency has ultimately determined that the activity investigated is criminal activity? Wouldn't the activity be criminal activity?

2. Activities or behaviors for which multiple complaints have been made regarding the same residential rental unit, including noise complaints, barking dog complaints, stray animal complaints, juvenile complaints, and other complaints regarding public concerns, resulting in an unusually high number of calls for law enforcement services to the rental unit.

3. Any activity that causes a situation that jeopardizes the health or safety of any person at or near a residential rental unit.

(2) A property owner may terminate the tenancy of a residential tenant if both of the following are satisfied:

(a) The property owner receives written notice from a law enforcement agency or from the office of the district attorney of any of the following:

Insert 2-22

1. That a nuisance under s. 823.113 (1) or (1m) (b) exists in the tenant's rental unit or was caused by the tenant on the property owner's rental property.

****NOTE: This provision takes the place of s. 704.17 (1) (c), (2) (c), and (3) (b), which are repealed. I don't know how s. 704.17 (1) (c), (2) (c), or (3) (b) works in practice, as there does not appear to be any requirement under the statutes that a law enforcement agency or district attorney's office send written notice to a landlord if a nuisance under s. 823.113 (1) or (1m) (b) exists at the landlord's property.

3. That criminal or nuisance activity caused by any person has taken place in the tenant's rental unit.

4. That criminal or nuisance activity caused by the tenant, a member of the tenant's household, or an invited or uninvited guest or associate of the tenant or of a member of the tenant's household has taken place on the property owner's rental property.

(b) The property owner gives the tenant written notice that complies with sub. (3) requiring the tenant to vacate on or before a date at least 5 days after the giving of the notice.

(3) (a) The notice under sub. (2) (b) shall state the basis for its issuance and the right of the tenant to contest the termination of tenancy in an eviction action under ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the property owner by the greater preponderance of the credible evidence of the allegation in the notice from the law enforcement agency or office of the district attorney under sub. (2) (a) 1, 2, or 3.

(b) The notice must be in writing and given as specified in s. 704.21. If so given, the tenant is not entitled to possession or occupancy of the premises after the date of termination specified in the notice.

****NOTE: This provision parallels s. 704.17 (4).

Insert 3-8

(4) Nothing in this section shall be construed to relieve a tenant whose tenancy is terminated under this section from any obligation under a rental agreement or any other liability to the ~~landlord~~ *property owner*

****NOTE: This provision parallels s. 704.16 (4) (c) 2.

SECTION 5. 823.073 of the statutes is created to read:

823.073 Notice to landlord of nuisance investigation. (1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(b) "Municipality" means a county, city, village, or town.

(2) If a municipality has an ordinance regulating nuisances, the local law enforcement agency shall notify the owner or property manager of residential rental property, at the owner's or property manager's last known address, whenever the law enforcement agency investigates an alleged nuisance at the residential rental property.

SECTION 6. 893.34 of the statutes is amended to read:

893.34 Immunity for property owners. No suit may be brought against any property owner who, in good faith, terminates a tenancy as the result of receiving a notice from a law enforcement agency under s. 704.17 (1) (e), (2) (e) or (3) (b) 704.18 (2) (a).

SECTION 7. 893.80 (7) of the statutes is amended to read:

893.80 (7) No suit may be brought against the state or any governmental subdivision or agency thereof or against any officer, official, agent, or employee of any of those entities who, in good faith, acts or fails to act to provide a notice to a property owner that a public nuisance under s. 823.113 (1) or (1m) (b) exists or that criminal activity, as defined in s. 704.18 (1) (a), or nuisance activity, as defined in s. 704.18 (1) (c), has taken place on the property owner's property.

Insert 4-12

SECTION 8. Initial applicability.

(1) This act first applies to criminal activities, as defined in section 704.18 (1) (a) of the statutes, as created by this act, or nuisance activities, as defined in section 704.18 (1) (c) of the statutes, as created by this act, that are committed on the effective date of this subsection.

(END)

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2098/lins
PJK:.....

INSERT A

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a property owner may terminate the tenancy of a residential tenant if criminal activity caused by any person takes place in the tenant's rental unit or if criminal activity caused by the tenant, a member of the tenant's household, or an invited or uninvited guest or associate of the tenant or of a member of the tenant's household takes place on the property owner's rental property. Criminal activity is defined in the bill as any act or behavior that is punishable by a fine or period of imprisonment or that is a violation of an ordinance of the county, city, village, or town in which the rental property is located.

The property owner must provide written notice to the tenant to vacate the property on or before a date that is at least five days after the notice is given. The notice, which does not give the tenant the right to cure the breach, must advise the tenant of the basis for its issuance and of the tenant's right to contest the termination of tenancy in an eviction action. If the tenant contests the termination of tenancy in an eviction action, the property owner must prove the allegation of criminal activity by the greater preponderance of the credible evidence. The termination of tenancy does not relieve the tenant of any obligation, such as payment of rent, to the property owner.

Also under the bill, if a county, city, village, or town has an ordinance regulating nuisances, the local law enforcement agency ~~is required to~~ ^{must} notify the owner or property manager of residential rental property whenever the law enforcement agency investigates an alleged nuisance at the residential rental property.

(END OF INSERT A)

INSERT 2-22

- 1 ^{CH} (b) It is a violation of an ordinance of the county, city, village, or town in which
- 2 the rental property is located.
- 3 ^{CH} (2) (a) A property owner may terminate the tenancy of a residential tenant on
- 4 the basis of any of the following by giving the tenant written notice that complies with
- ↓

ins 2-22 contd

1 ^{no 6} sub. (3) requiring the tenant to vacate on or before a date at least 5 days after the
2 giving of the notice:

(END OF INSERT 2-22)

INSERT 3-8

3 ⁶ (b) The notice under this subsection does not give the tenant the right to cure
4 the breach.

(END OF INSERT 3-8)

INSERT 4-12

5 **SECTION ~~7~~** 710.10 (1) of the statutes is amended to read:
6 710.10 (1) A person holding in violation of s. 704.17 (4), ~~or of s. 704.18 (3) (b),~~
7 or 704.19 (8).

History: 1971 c. 211; 1975 c. 198; 1979 c. 32 s. 92 (16); 1993 a. 486.

(END OF INSERT 4-12)

Kahler, Pam

From: Deering, Bonnie
Sent: Thursday, November 10, 2011 1:11 PM
To: Kahler, Pam
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Pam, in reviewing the concerns about LRB 2098/1 we would like a /2 drafted that simply removes "or uninvited guest" in 704.18(2)(a)2. I believe that is the only change we will need. Thank you!

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

From: Kahler, Pam
Sent: Tuesday, June 28, 2011 10:51 AM
To: Deering, Bonnie
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Perfect.

From: Deering, Bonnie
Sent: Tuesday, June 28, 2011 9:51 AM
To: Kahler, Pam
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

The 13th it is. How about 11:00 on the 13th in our office, 113 West.

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District

From: Kahler, Pam
Sent: Tuesday, June 28, 2011 9:50 AM
To: Deering, Bonnie
Subject: RE: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Any of those would work. Perhaps we should shoot for the 13th, though, because I may try to get some vacation in later in July and/or August.

From: Deering, Bonnie
Sent: Tuesday, June 28, 2011 9:39 AM
To: Kahler, Pam
Subject: 09-10 LRB 1793 terminating tenancy for conviction of drug related or violent crime

Pam: Would you be willing to come over to Rep. Honadel's office and meet with Mark and some folks from the WI Apartment Association on changes for re-drafting of 09-10 LRB 1793? We are looking at some dates in July; the 13th, 26th, 27th, or 28th. Would any of those dates work for you?

Bonnie Deering
Office of Rep. Mark Honadel
21st Assembly District



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2098/6

PJK:wlj:z

Stays
r m is run

2011 BILL

- (in 11-10)
- Regen
- 1 AN ACT *to amend* 710.10 (1); and *to create* 704.18 and 823.073 of the statutes;
- 2 **relating to:** terminating a tenancy for criminal activity and requiring notice
- 3 to landlord of nuisance investigation by law enforcement agency.

Analysis by the Legislative Reference Bureau

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a property owner may terminate the tenancy of a residential tenant if criminal activity caused by any person takes place in the tenant's rental unit or if criminal activity caused by the tenant, a member of the tenant's household, or an invited or uninvited guest or associate of the tenant or of a member of the tenant's household takes place on the property owner's rental property. Criminal activity is defined in the bill as any act or behavior that is punishable in this state by a fine or period of imprisonment or that is a violation of an ordinance of the county, city, village, or town in which the rental property is located.

The property owner must provide written notice to the tenant to vacate the property on or before a date that is at least five days after the notice is given. The notice, which does not give the tenant the right to cure the breach, must advise the tenant of the basis for its issuance and of the tenant's right to contest the termination

BILL

of tenancy in an eviction action. If the tenant contests the termination of tenancy in an eviction action, the property owner must prove the allegation of criminal activity by the greater preponderance of the credible evidence. The termination of tenancy does not relieve the tenant of any obligation, such as payment of rent, to the property owner.

Also under the bill, if a county, city, village, or town has an ordinance regulating nuisances, the local law enforcement agency must notify the owner or property manager of residential rental property whenever the law enforcement agency investigates an alleged nuisance at the residential rental property.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 704.18 of the statutes is created to read:

2 **704.18 Termination of tenancy for criminal activity.** (1) In this section,
3 “criminal activity” means any act or behavior committed by a person that satisfies
4 any of the following:

5 (a) It is punishable in this state by a fine or period of imprisonment.

6 (b) It is a violation of an ordinance of the county, city, village, or town in which
7 the rental property is located.

8 (2) (a) A property owner may terminate the tenancy of a residential tenant on
9 the basis of any of the following by giving the tenant written notice that complies with
10 sub. (3) requiring the tenant to vacate on or before a date at least 5 days after the
11 giving of the notice:

12 1. That criminal activity caused by any person has taken place in the tenant's
13 rental unit.

14 2. That criminal activity caused by the tenant, a member of the tenant's
15 household, or an invited or uninvited guest or associate of the tenant or of a member
16 of the tenant's household has taken place on the property owner's rental property.

BILL

1 (b) The notice under this subsection does not give the tenant the right to cure
2 the breach.

3 (3) (a) The notice under sub. (2) shall state the basis for its issuance and the
4 right of the tenant to contest the termination of tenancy in an eviction action under
5 ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be
6 terminated unless the property owner proves, by the greater preponderance of the
7 credible evidence of the allegation under sub. (2) (a) 1. or 2.

8 (b) The notice must be in writing and given as specified in s. 704.21. If so given,
9 the tenant is not entitled to possession or occupancy of the premises after the date
10 of termination specified in the notice.

11 (4) Nothing in this section shall be construed to relieve a tenant whose tenancy
12 is terminated under this section from any obligation under a rental agreement or any
13 other liability to the property owner.

14 **SECTION 2.** 710.10 (1) of the statutes is amended to read:

15 710.10 (1) A person holding in violation of s. 704.17 (4), ~~or of s. 704.18 (3) (b),~~
16 or 704.19 (8).

17 **SECTION 3.** 823.073 of the statutes is created to read:

18 **823.073 Notice to landlord of nuisance investigation.** (1) In this section:

19 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

20 (b) "Municipality" means a county, city, village, or town.

21 (2) If a municipality has an ordinance regulating nuisances, the local law
22 enforcement agency shall notify the owner or property manager of residential rental
23 property, at the owner's or property manager's last known address, whenever the law
24 enforcement agency investigates an alleged nuisance at the residential rental
25 property.

BILL

SECTION 4. Initial applicability.

(1) This act first applies to criminal activities, as defined in section 704.18 (1) of the statutes, as created by this act, that are committed on the effective date of this subsection.

(END)

Godwin, Gigi

From: Deering, Bonnie
Sent: Thursday, February 09, 2012 11:28 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-2098/2 Topic: Terminating a tenancy for drug-related or violent crimes

Please Jacket LRB 11-2098/2 for the ASSEMBLY.

for AB 668

(in trying to find out
the spelling - & let
him a message)
↓
Gerke?
sp ↑

DATCP - Jason

224-4748

Rep. Honadel's office asked a state
fiscal estimate

send Jason an approval confirmation?
contact DOT?

Per
PTK
03-08-2012